

Organizations that have "E" numbers may engage in a limited amount of retail selling without incurring Retailers' Occupation Tax liability. These limited amounts of selling are described in 86 Ill. Adm. Code 130.2005(a)(2) through (a)(4). (This is a GIL.)

December 28, 1998

Dear Ms. Xxxxx:

This letter is in response to your letter dated November 11, 1998. The nature of your letter and the information you have provided require that we respond with a General Information Letter which is designed to provide general information, is not a statement of Department policy and is not binding on the Department. See 86 Ill. Adm. Code 1200.120(b) and (c), enclosed.

In your letter, you have stated and made inquiry as follows:

We would like to request a letter ruling regarding the taxation of products purchased through charitable contributions and fund raisers. In the following scenario, is the customer required to pay sales tax on her purchase?

**The independent sales representative agrees to sell products to a non-profit organization, such as the Girl Scouts, and gives a percentage of her profit to the organization. The Girl Scouts take outside orders from their parents and friends. Each guest order is made out in the name of the customer and their check is made payable to the non-profit organization. The organization then writes a check to the independent sales rep for the entire order. Is the sale exempt from tax because it was made through a non-profit organization, or is it taxable since the product is being resold by the non-profit organization?**

We've heard some opposing views on this issue and would greatly appreciate your help and clarification.

Organizations that make application to the Department and are determined to be exclusively religious, educational, or charitable, receive an exemption identification "E" number. See the enclosed copy of 86 Ill. Adm. Code 130.2007. This number evidences that this State recognizes that the organization qualifies as exempt from incurring Use Tax when purchasing tangible personal property in furtherance of its organizational purpose. If an organization does not have an "E" number, then its purchases are subject to tax.

Organizations that have "E" numbers may also engage in a limited amount of retail selling without incurring Retailers' Occupation Tax liability. These limited amounts of selling are described in the enclosed copy of 86 Ill. Adm. Code 130.2005(a)(2) through (a)(4). An exempt organization may engage in sales to members, noncompetitive sales, and certain occasional dinners and similar activities (two fundraisers a year) without incurring Retailers' Occupation Tax liability. Application for an receipt of an "E" number issued by the

Department's Office of Local Government Services is a prerequisite to exemption from Retailers' Occupation Tax liability in these limited circumstances.

In regards to sales to members, please note that the population to which sales are made is limited to persons specifically associated with that exempt organization and must be for the primary purpose of the selling organization. If such sales are made to the public at large, the selling activity is subject to the Retailers' Occupation Tax. See section 130.2005(a)(2) through (a)(4).

If organizations possessing exemption numbers engage in ongoing selling activities (such as Little League concession stands or sales of items in a thrift shop run by a church), they must also register with the Department as retailers, file returns and remit tax. Such organizations must provide their suppliers with Certificates of Resale when making purchases for resale. Illinois law requires a Certificate of Resale to contain the information set out in 86 Ill. Adm. Code 130.1405(b), enclosed. This information includes the following:

1. a short statement from the purchaser that the items are being purchased for resale
2. the seller's name and address;
3. the purchaser's name and address;
4. the purchaser's signature and date of signing;
5. a sufficient identification or description of the items purchased for resale; and
6. one of the following:

the purchaser's registration number with the Illinois Department of Revenue,

the purchaser's resale number issued by the Illinois Department of Revenue, or

a statement that the purchaser is an out-of-State purchaser who will sell only to purchasers located outside the State of Illinois.

I hope this information is helpful. If you have further questions related to the Illinois sales tax laws, please contact the Department's Taxpayer Information Division at (217) 782-3336.

If you are not under audit and you wish to obtain a binding Private Letter Ruling regarding your factual situation, please submit all of the information set out in items 1 through 8 of the enclosed copy of Section 1200.110(b).

Very truly yours,

Martha P. Mote  
Associate Counsel

MPM:msk  
Encl.